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Plea

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

16 CR 831-1 (ER)

5 JOO HYUN BAHN,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 January 5, 2018  
10:00 a.m.

10 Before:

11 HON. EDGARDO RAMOS,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN

Interim United States Attorney for the  
Southern District of New York

16 DANIEL S. NOBLE

17 DENNIS R. KIHM

Assistant United States Attorneys

18 JULIA GATTO

19 Attorney for Defendant Bahn

20  
21 ALSO PRESENT:

Sean Thomas-Moore, Special Agent FBI

22 Michael Chang-Frieden, Paralegal

1 (Case called)

2 MR. NOBLE: Daniel Noble and Dennis Kihm for the  
3 government. With us at counsel table are Special Agent Sean  
4 Thomas-Moore of the FBI and our paralegal Michael  
5 Chang-Frieden.

6 MS. GATTO: Federal Defenders of New York, by Julia  
7 Gatto, for Mr. Bahn. With me at counsel table are Susha Harau  
8 and Ryan Matrick Maroney, who are assisting the Federal  
9 Defenders.

10 THE COURT: Good morning to you, all.

11 Mr. Noble, what are we doing this morning?

12 MR. NOBLE: It is the government's understanding,  
13 based on our conversation with defense counsel, that Mr. Bahn  
14 intends to change his plea to guilty to Counts One and Four of  
15 the indictment pursuant to plea agreement that the parties have  
16 reached, a copy of which has been passed up to your Honor and  
17 was previously sent to your chambers.

18 THE COURT: Ms. Gatto?

19 MS. GATTO: That's correct, your Honor.

20 THE COURT: Very well.

21 How do I pronounce your last name? Is it Bahn?

22 MS. GATTO: Yes, Bahn.

23 THE COURT: Your attorney has informed me that you  
24 wish to enter a plea of guilty. I'm happy to take your plea.  
25 However, before I do that, I need to ask you a series of

1 questions. I'm trying to determine in the first instance that  
2 you know what is happening here today and the consequences of  
3 taking a plea, and the other thing that I'm trying to determine  
4 is whether you are in fact guilty of the crimes to which you  
5 wish to plead guilty.

6 As I ask you these questions, it is vitally important  
7 that you be absolutely truthful. So I'm going to have you  
8 placed under oath.

9 (Defendant sworn)

10 THE COURT: You may be seated and you may remain  
11 seated throughout this proceeding.

12 Mr. Bahn, you are now under oath. Do you understand  
13 that if you answer any of my questions falsely, your answers  
14 could be used against you in a prosecution for perjury or for  
15 making a false statement?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: As I indicated, I am going to ask you a  
18 series of questions. If I ask you a question and you don't  
19 understand it, simply let me know and I'll rephrase it. Or if  
20 I ask you a question and you wish to speak with Ms. Gatto  
21 before you answer it, let me know that.

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Sir, can you please tell me your full  
24 name.

25 MR. SKWRAO: Joo Hyun Bahn.

1 THE COURT: How old are you?

2 THE DEFENDANT: 39 years old.

3 THE COURT: How far did you get in school?

4 THE DEFENDANT: I have a master's degree.

5 THE COURT: In what?

6 THE DEFENDANT: Real estate finance and investments.

7 THE COURT: Sir, are you able to read and write in  
8 English?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Sir, are you now or have you recently been  
11 under the care of a doctor or psychiatrist?

12 THE DEFENDANT: No, I haven't.

13 THE COURT: Have you ever been treated or hospitalized  
14 for any mental illness or any type of addiction, including drug  
15 or alcohol addiction?

16 THE DEFENDANT: No, I have not.

17 THE COURT: Sir, in the past 24 hours have you taken  
18 any drugs, medicine or pills or have you consumed any alcohol?

19 THE DEFENDANT: No, I haven't.

20 THE COURT: Is your mind clear today?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Mr. Bahn, are you feeling well enough to  
23 proceed and to understand what is going on here today?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Mr. Bahn, Ms. Gatto has informed me that

1 you wish to enter a plea of guilty. Is that correct?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Sir, have you had a full opportunity to  
4 discuss your case with her, including any possible defenses  
5 that you might have?

6 THE DEFENDANT: Yes, I have.

7 THE COURT: Mr. Bahn, are you satisfied and have you  
8 had a full opportunity to discuss with Ms. Gatto the  
9 consequences of entering a plea of guilty?

10 THE DEFENDANT: Yes, I have.

11 THE COURT: Are you satisfied with her representation  
12 of you?

13 THE DEFENDANT: Yes, I am.

14 THE COURT: Does either counsel have any doubt as to  
15 Mr. Bahn's competence to enter into a guilty plea at this time?

16 MR. NOBLE: No, your Honor.

17 MS. GATTO: No, your Honor.

18 THE COURT: On the basis of Mr. Bahn's responses to my  
19 questions and my observations of his demeanor, I find that he  
20 is fully competent to enter an informed guilty plea at this  
21 time.

22 The next series of questions that we need to go over,  
23 Mr. Bahn, involve the rights that you are giving up by pleading  
24 guilty. So, again, please listen very carefully.

25 First, you have the right to be represented by an

1 attorney at trial and at every other stage of the proceeding.  
2 If you could not afford an attorney, an attorney would be  
3 appointed to represent you without cost to you.

4 Do you understand that?

5 THE JUROR: Yes, your Honor.

6 THE COURT: You have a right to a speedy and public  
7 trial by a jury on the charges against you which are contained  
8 in the indictment.

9 Do you understand?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: At trial, you would be presumed innocent  
12 and the government would be required to prove you guilty by  
13 competent evidence beyond a reasonable doubt before you could  
14 be found guilty; you would not have to prove that you were  
15 innocent at trial.

16 Do you understand?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: If there were a jury trial, the jury would  
19 be composed of 12 people selected from this district and all 12  
20 would have to agree unanimously that you were guilty before you  
21 could be found guilty.

22 Do you understand?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: At trial, you would have the right to see  
25 and hear all of the witnesses against you and your attorney

1 could cross-examine them. Your attorney could object to the  
2 government's evidence and offer evidence on your behalf. You  
3 would also have the right to have subpoenas issued to compel  
4 witnesses to come to court to testify in your defense.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: At trial, you would have the right to  
8 testify if you wanted to, but no one could force you to  
9 testify, and if you chose not to testify, I would tell the jury  
10 that it could not hold that against you.

11 Do you understand?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: If you were convicted at trial, you would  
14 have a right to appeal that verdict.

15 Do you understand?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you also understand that by entering a  
18 plea of guilty here today you are giving up all of the rights  
19 that I've just described, except for your right to counsel, and  
20 you would be found guilty based only on your plea of guilty?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And, Mr. Bahn, do you understand that you  
23 can change your mind right now for any reason and decide not to  
24 enter a guilty plea?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Mr. Bahn, have you received a copy of the  
2 indictment?

3 THE DEFENDANT: Yes, I have.

4 THE COURT: Have you read the indictment?

5 THE DEFENDANT: Yes.

6 THE COURT: Have you discussed the indictment with  
7 your attorney?

8 THE DEFENDANT: Yes, I did.

9 THE COURT: Do you understand that you are charged in  
10 Count One of that indictment with a violation of Title 1 of the  
11 United States Code, Section 371, and that you are alleged to  
12 have conspired to violate the Foreign and Corrupt Practices  
13 Act?

14 THE DEFENDANT: Yes, I am.

15 THE COURT: Do you understand that you are charged in  
16 Count Four of that indictment with actually violating the  
17 Foreign and Corrupt Practices Act, in violation of Title 15 of  
18 the United States Code, Section 78dd-2?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: Mr. Noble, would you please put on the  
21 record the elements of those offenses.

22 MR. NOBLE: Yes, your Honor.

23 With respect to Count One, the conspiracy count, the  
24 government would have to prove the following three elements  
25 beyond a reasonable doubt:



1 First, the existence of a conspiracy to violate the  
2 Foreign and Corrupt Practices Act; second, that the defendant  
3 willfully and knowingly joined the conspiracy with the intent  
4 to further the conspiracy; and third, that a coconspirator made  
5 at least one or conducted at least one overt act in furtherance  
6 of the conspiracy.

7 With respect to Count Four, the substantive FCPA  
8 violation, the government would have to prove the following  
9 elements beyond a reasonable doubt:

10 First, that the defendant was a domestic concern or an  
11 officer, director, employee, or agent of such domestic concern  
12 or any stockholder thereof acting on behalf of a such domestic  
13 concern, or that the defendant aided and abetted a domestic  
14 concern;

15 Second, that the defendant acted corruptly and  
16 willfully;

17 Third, that the defendant made use of the mails or any  
18 means or instrumentality of interstate commerce in furtherance  
19 of an unlawful act under the statute, namely, an offer,  
20 payment, promise to pay, or authorization of the payment of  
21 money for anything of value, or aided and abetted another to do  
22 the same;

23 Fourth, that the defendant offered, paid, promised to  
24 pay, or authorized the payment of money or a gift or anything  
25 of value;

1 Fifth, that that offer, promise to pay, or  
2 authorization of payment of money or anything of value was  
3 either, A, to a foreign official or, B, to any person while the  
4 defendant knew that all or a portion of that payment would be  
5 offered, given, or promised, directly or indirectly, to a  
6 foreign official as that term is defined under the FCPA.

7 Sixth, that the payment was intended for one of three  
8 purposes relevant to this action: A, to influence any act or  
9 decision of a foreign public official in his or her official  
10 capacity; B, to induce such foreign official to do, or omit to  
11 do, any act in violation of the lawful duty of such foreign  
12 official; and, C, to secure any improper advantage; and

13 Seventh and finally, that the payment was to assist  
14 the domestic concern in obtaining or retaining business for or  
15 with, or directing business to, any person.

16 In addition to the foregoing, the government would  
17 have to prove that venue lies here in the Southern District of  
18 New York by a preponderance of the evidence.

19 THE COURT: Thank you, Mr. Noble.

20 Mr. Bahn, did you hear what the prosecutor said?

21 THE DEFENDANT: Yes, I have, your Honor.

22 THE COURT: Sir, do you understand that if you did not  
23 plead guilty to these offenses today, at a trial the government  
24 would have prove each and every one of those elements beyond a  
25 reasonable doubt?

1 THE DEFENDANT: Yes, I understand.

2 THE COURT: Mr. Bahn, did you discuss with Ms. Gatto  
3 the possible punishment that you face if you were to plead  
4 guilty to Counts One and Four?

5 THE DEFENDANT: Yes, we did.

6 THE COURT: Mr. Noble, am I correct that both counts  
7 carry the same punishment?

8 MR. NOBLE: That's correct, your Honor.

9 THE COURT: So, Mr. Bahn, did you discuss with  
10 Ms. Gatto that if you were to plead guilty to Counts One or  
11 Four, you would face a maximum term of imprisonment of five  
12 years on each of those counts?

13 THE DEFENDANT: Yes, I understand.

14 THE COURT: You understand that you face a maximum  
15 term of supervised release of three years on each of those  
16 counts?

17 THE DEFENDANT: Yes, I understand.

18 THE COURT: Do you also understand that there are, in  
19 addition, financial penalties, including a \$100 mandatory  
20 special assessment that I must impose on each count and a fine  
21 that I could impose on each count that could be as high as  
22 either \$250,000 or twice the gross gain from the offense or  
23 twice the gross loss to victims of the offense.

24 Do you understand that?

25 THE DEFENDANT: Yes, I understand, your Honor.

1 THE COURT: And do you understand that because you're  
2 pleading guilty to two counts, I have the ability to impose  
3 these sentences either concurrently, meaning that you would  
4 serve both sentences on both counts at the same time, or  
5 consecutively, meaning that I could have you serve those  
6 sentences one after the other?

7 THE DEFENDANT: Yes, I understand.

8 THE COURT: Therefore, do you understand that because  
9 of that maximum term of imprisonment that you face, if you were  
10 to plead guilty to both counts, is ten years?

11 THE DEFENDANT: Yes, I understand, your Honor.

12 THE COURT: And the maximum supervised -- rather, the  
13 maximum fine is a \$200 mandatory assessment.

14 Do you understand that?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: Sir, I used phrase supervised release. Do  
17 you understand that supervised release means that you will be  
18 subject to monitoring and supervision when you are released  
19 from prison?

20 THE DEFENDANT: Yes, I understand.

21 THE COURT: And there are terms and conditions of  
22 supervised release with which you must comply, and if you do  
23 not comply with them, you could be returned to prison without a  
24 jury trial.

25 Do you understand?

1 THE DEFENDANT: Yes, I do.

2 THE COURT: And do you understand that if you violate  
3 the terms and conditions of supervised release and are returned  
4 to prison, that you will not receive credit for time previously  
5 served in prison or time previously served on supervised  
6 release?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: Sir, do you understand as part of your  
9 sentence I could also order restitution or that you pay  
10 restitution to any person injured as a result of your conduct?

11 THE DEFENDANT: Yes, I do, your Honor.

12 THE COURT: And, Mr. Bahn, do you understand that if I  
13 accept your guilty plea, that determination may deprive you of  
14 certain valuable civil rights, such as the right to vote, the  
15 right to hold public office, the right to serve on a jury, the  
16 right to possess any kind of firearm, and the right to hold  
17 certain professional licenses?

18 THE DEFENDANT: Yes, I do, your Honor.

19 THE COURT: Mr. Bahn, are you a United States citizen?

20 THE DEFENDANT: No, I'm not.

21 THE COURT: Of what country are you a citizen?

22 THE DEFENDANT: I'm from South Korea.

23 THE COURT: Ms. Gatto, have you advised Mr. Bahn about  
24 the possible immigration consequences of entering a guilty  
25 plea?

1 MS. GATTO: I have, your Honor.

2 THE COURT: Mr. Bahn, has your lawyer advised you as  
3 to the possible immigration consequences of entering a plea?

4 THE DEFENDANT: Yes, she has.

5 THE COURT: So do you understand that there could be  
6 adverse immigration consequences, including possible  
7 deportation if you were to plead guilty today?

8 THE DEFENDANT: Yes, I do understand.

9 THE COURT: Sir, do you understand that if there are  
10 adverse immigration consequences as a result of your plea, you  
11 will not be able to withdraw your plea or appeal or otherwise  
12 challenge your conviction on the basis of those adverse  
13 immigration consequences?

14 THE DEFENDANT: Yes, I understand.

15 THE COURT: Sir, do you understand that there is a  
16 possibility that you will be deported from the United States  
17 after you serve your sentence?

18 THE DEFENDANT: Yes, I do, your Honor.

19 THE COURT: And do you understand that if for some  
20 reason you are not deported after serving your sentence, you  
21 will still be sentenced to supervised release?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Sir, do you understand that if you are  
24 deported, by returning to the United States during your period  
25 of supervised release without the permission of the Secretary

1 of the United States Department of Homeland Security would not  
2 only be a separate crime, but also a violation of the  
3 conditions of supervised release?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: Sir, do you understand that if you have  
6 begun the process of becoming a naturalized U.S. citizen, the  
7 fact of your conviction could adversely affect that process?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Do you further understand that the fact of  
10 your conviction could adversely affect any application you may  
11 make in the future to re-enter the United States?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Now the next series of questions that we  
14 need to discuss, Mr. Bahn, involve the sentencing guidelines.  
15 So let me begin by asking you, do you understand that there are  
16 sentencing guidelines that I must consider in determining the  
17 appropriate sentence in your case?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Have you spoken with Ms. Gatto about how  
20 the guidelines apply to your case?

21 THE DEFENDANT: Yes, we have.

22 THE COURT: Sir, do you understand that I have to  
23 calculate a guideline range and then consider that range in  
24 determining what your sentence will be?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: Do you also understand that I will not be  
2 able to determine that range until after a probation report or  
3 a presentence report has been drafted by the U.S. probation  
4 office and both you and the government have had a chance to  
5 review a draft of that report?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: Do you further understand that even after  
8 I calculate the guideline range, I have the ability to impose a  
9 sentence that could be higher or lower than what the guidelines  
10 recommend?

11 THE DEFENDANT: Yes, I do your Honor.

12 THE COURT: Sir, do you also understand that in  
13 determining the guideline range, I also have to consider a  
14 number of other factors set forth in Title 18 of the United  
15 States Code, Section 3553(A), which requires me to consider,  
16 among other things, you and your personal history and  
17 characteristics and about the offense in determining the  
18 appropriate sentence in your case?

19 THE DEFENDANT: Yes, I do, your Honor.

20 THE COURT: So even after I determine the appropriate  
21 guideline range, I must also consider those other factors and,  
22 again, might settle on a sentence that is either higher or  
23 lower than what the guidelines recommend.

24 Do you understand that?

25 THE DEFENDANT: Yes, I do, your Honor.



1 THE COURT: Sir, do you understand that if your  
2 attorney or anyone else has attempted to estimate or predict  
3 what your sentence will be, their estimate or prediction could  
4 be wrong?

5 THE DEFENDANT: Yes, I do, your Honor.

6 THE COURT: Sir, while it is perfectly appropriate for  
7 you and your attorneys to have discussed how the sentence will  
8 be calculated, no one could give you any assurance of what your  
9 sentence will be.

10 Do you understand that?

11 THE DEFENDANT: Yes, I do your Honor.

12 THE COURT: Mr. Bahn, I say all of this to you because  
13 you need to understand that if your sentence is different from  
14 what your attorney or anyone else told you it might be or if it  
15 is different from what you expect or even if it is different  
16 from what is contained in your plea agreement, the government  
17 you will still be bound by your guilty plea and you will not be  
18 able to withdraw your guilty plea.

19 Do you understand that?

20 THE DEFENDANT: Yes, I do, your Honor.

21 THE COURT: Sir, do you understand that if you are  
22 sentenced to prison, there is no parole in the federal system  
23 and you will not be released early on parole?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: The next series of questions involve your

1 agreement with the government. I have been given a copy of the  
2 original of an agreement. It's dated January 5, 2018. It is a  
3 six-page document.

4 On page six, there are a series of signatures,  
5 including one that purports to be yours, signed today. I am  
6 going to hold this up. Can you see this from where you are  
7 seated?

8 THE DEFENDANT: Yes.

9 THE COURT: Is this your signature on page six of that  
10 agreement?

11 THE DEFENDANT: Yes, it is.

12 THE COURT: This document will be marked Court Exhibit  
13 No. 1.

14 Now, Mr. Bahn, did you read this agreement before you  
15 signed it?

16 THE DEFENDANT: Yes, I did, your Honor.

17 THE COURT: Did you discuss it with your attorney  
18 before you signed it?

19 THE DEFENDANT: Yes, we have.

20 THE COURT: Did you fully understand the agreement  
21 when you signed it?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Does this agreement include your  
24 understanding of the entire agreement between you and the  
25 government?

1 THE DEFENDANT: Yes.

2 THE COURT: Mr. Bahn, is there any other promise or is  
3 there any other agreement about your plea or your sentence that  
4 is not contained in this document?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Did anyone threaten or force to you enter  
7 into this agreement?

8 THE DEFENDANT: No.

9 THE COURT: Other than what is in the agreement, has  
10 anyone promised you anything or offered you anything in order  
11 to plead guilty or to enter into this agreement?

12 THE DEFENDANT: No.

13 THE COURT: Mr. Bahn, has anyone made you a promise as  
14 to what your sentence will be?

15 THE DEFENDANT: No.

16 THE COURT: Sir, there is a stipulation in the  
17 agreement concerning the sentencing guidelines. I believe it's  
18 call a stipulated guideline range.

19 Do you understand that that stipulation binds you and  
20 it binds the government, but it does not bind me, and I have  
21 still got to make any own calculation as to what the guidelines  
22 should be.

23 Do you understand that?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: Do you understand that under certain

1 circumstances both you and the government have a right to  
2 appeal any sentence that I might impose?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: However, there is a stipulation in the  
5 agreement in which you agree that you will not appeal any  
6 sentence that is within or below the applicable sentencing  
7 guideline range.

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Do you understand that that essentially  
10 severely limits your ability to appeal any sentence that I  
11 might impose or any sentence that I impose within or below the  
12 stipulated guideline range?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Mr. Noble, would you please summarize what  
15 the government would expect to prove if this case were to go to  
16 trial.

17 MR. NOBLE: Yes, your Honor.

18 If this case were to proceed to trial, the  
19 government's evidence would consist of the following and show  
20 the following facts:

21 Testimony and documentary evidence that at all  
22 relevant times Mr. Bahn was a legal permanent resident of the  
23 United States and a resident of New Jersey, and worked as a  
24 real estate broker in Manhattan; second, testimony of at least  
25 one cooperating witness about Mr. Bahn's participation with

1 others in the scheme to bribe a foreign official in order to  
2 use that foreign official's influence to induce a foreign  
3 sovereign wealth fund to purchase the Landmark 72 building  
4 complex in Vietnam from Bahn's client Keangnam Enterprises.

5 Such testimony would also be corroborated by, among  
6 other things, documents, bank records and e-mails and text  
7 messages, including e-mails and text messages recovered from  
8 Mr. Bahn's work and personal e-mail accounts.

9 Third, testimony and documentary evidence that the  
10 foreign official, who Mr. Bahn and his co-conspirators  
11 attempted to bribe, was in fact an executive of a state-owned  
12 foreign sovereign wealth fund which was an instrumentality of  
13 that foreign state; and

14 Finally, bank records and other documents reflecting  
15 wire transfers of funds from Keangnam's bank account in South  
16 Korea to the bank account of Mr. Bahn's real estate firm for  
17 which he worked in Manhattan, which Mr. Bahn used to obtain a  
18 loan that he used to attempt to pay an initial \$500,000 bribe,  
19 up-front bribe to the foreign official involved in the scheme.

20 THE COURT: Thank you.

21 Mr. Bahn, did you hear what the prosecutor said?

22 THE DEFENDANT: Yes, I have.

23 THE COURT: Sir, have you clearly understood  
24 everything that has happened here today so far?

25 THE DEFENDANT: Yes, I do, your Honor.

1 THE COURT: Mr. Bahn, will you now please tell me in  
2 your own words what it is that you did that makes you guilty of  
3 the crimes to which you are pleading guilty?

4 THE DEFENDANT: Sure.

5 THE COURT: Are you about to read something?

6 THE DEFENDANT: Yes.

7 THE COURT: I just want to make sure that when you  
8 read, you read slowly and clearly so I can hear you and the  
9 court reporter can take down everything you say. OK?

10 THE DEFENDANT: Yes, your Honor.

11 From February 2014 to May 2015, I facilitated what I  
12 thought was a bribe payment being paid to whom I thought was a  
13 foreign official of country of @Qatar. I had been told that in  
14 his official capacity were any official made decisions  
15 regarding how to allocate @Qatar's sovereign wealth fund's  
16 assets.

17 At the time I was one of several real estate brokers  
18 working for a Korean company that was trying to sell a property  
19 located in Vietnam.

20 I thought the bribe payment was being made to  
21 corruptly influence the foreign official. In exchange for the  
22 bribe payment, and acting in his official capacity, the foreign  
23 official was supposed to encourage Cutters' sovereign wealth  
24 fund to purchase the building. In reality, however, there was  
25 no foreign official and the bribe payment was never given to a

1 foreign official. Instead, Malcolm Harris stole the money.

2 In an effort to facilitate what I thought was the  
3 bribe payment, I sent e-mails and texts to others involved.  
4 Some of these communications were sent from my office located  
5 in Manhattan.

6 I'm a national of South Korea. I'm a lawful permanent  
7 resident of the United States.

8 Between February 2014 and May 2015, I lived in New  
9 Jersey.

10 As part of these efforts, between February 2014 and  
11 May 2015, I agreed with others to facilitate the bribe and  
12 committed at least one act in furtherance of that agreement by  
13 sending texts and e-mails.

14 That's all, sir.

15 THE COURT: Mr. Bahn, when you did these things, did  
16 you know that what you were doing was wrong and against the  
17 law?

18 MS. GATTO: Your Honor, I don't think that that's  
19 necessarily an element of this offense, although I know that  
20 Mr. Bahn can allocute that he knew what he was doing was a bad  
21 act.

22 THE COURT: OK. Did you know that what you were doing  
23 was wrong?

24 THE DEFENDANT: Yes. I knew that what I was doing was  
25 a bad act.

1 THE COURT: Did anyone threaten you or force you to do  
2 those things?

3 THE DEFENDANT: No.

4 THE COURT: Does either counsel wish me to make any  
5 further inquiries?

6 MR. NOBLE: Judge, the government would just proffer  
7 with respect to the substantive FCPA violation of Count Four  
8 that the attempted bribe payment was in the amount of \$500,000.  
9 It was a check that was made out to Muse Creative Consulting,  
10 LLC, which was Malcolm Harris' company.

11 The government would further proffer that that check,  
12 which Mr. Bahn gave to Mr. Harris, was in fact deposited into a  
13 bank account here in Manhattan and cleared through a bank in  
14 Virginia.

15 That's just a proffer on the interstate commerce  
16 element, to the extent it wasn't already covered by Mr. Bahn's  
17 what we believe, very thorough allocution.

18 THE COURT: Very well.

19 Ms. Gatto, do you know of any valid defense that would  
20 prevail at trial or any reason why Mr. Bahn should not be  
21 permitted to plead guilty?

22 MS. GATTO: I see no why reason Mr. Bahn should not be  
23 permitted to plead guilty.

24 THE COURT: Ms. Gatto, do you believe that there is an  
25 adequate factual basis to support the plea?



1 MR. SKWRAO: I do.

2 THE COURT: Mr. Noble, is there an adequate factual  
3 basis to support the plea of guilty?

4 MR. NOBLE: Yes, your Honor.

5 THE COURT: Very well.

6 Mr. Bahn, how do you now plead to the charge in Count  
7 One of the indictment? Guilty or not guilty?

8 THE DEFENDANT: Guilty, your Honor.

9 THE COURT: And, sir, how do you now plead to the  
10 charge in Count Four of the indictment. Guilty or not guilty?

11 THE DEFENDANT: Guilty, your Honor.

12 THE COURT: Are you in fact guilty of those charges?

13 THE DEFENDANT: Yes, I am, your Honor.

14 THE COURT: Mr. Bahn, are you pleading guilty  
15 voluntarily and of your own free will?

16 THE DEFENDANT: Yes, I am.

17 THE COURT: Are there forfeiture allegations with  
18 respect to both of those counts?

19 MR. NOBLE: There are, your Honor.

20 THE COURT: Mr. Bahn, do you admit to the forfeiture  
21 allegations in the indictment?

22 THE DEFENDANT: Yes, I admit, your Honor.

23 THE COURT: Very well. Mr. Bahn, because you  
24 acknowledge that you are in fact guilty as charged in Counts  
25 One and Four of the indictment and because I find that you know

1 your rights and are waiving them knowingly and voluntarily with  
2 an understanding of the consequences of your plea, including  
3 the potential sentence that may be imposed, I accept your  
4 guilty plea and find you guilty of the charges in Counts One  
5 and Four.

6 I will now direct that a presentence investigation be  
7 conducted by the probation office and that a presentence report  
8 be prepared.

9 You will be interviewed as part of that process, Mr.  
10 Bahn. You can and should have your lawyer with you during that  
11 interview.

12 The presentence report will be a very important part  
13 in my decision as to what your sentence will be. You and your  
14 attorneys will have an opportunity to examine a draft of that  
15 report. It is very important that you read it very carefully  
16 and bring any mistakes or discrepancies that you may find  
17 therein to my attention. Both you and your lawyer will also  
18 have the right to speak on your behalf before sentence.

19 Is there a date for sentence?

20 COURTROOM DEPUTY: Yes. April 13, 2018 at 11 a.m.

21 MR. NOBLE: Judge, if I may, if we could ask for a  
22 date deeper into the year. I was thinking of June, if that was  
23 OK.

24 THE COURT: Any objection?

25 MR. NOBLE: No, your Honor.

1 COURTROOM DEPUTY: June 29 at 11 a.m.

2 MS. GATTO: Thank you, your Honor.

3 THE COURT: OK. Mr. Noble, is there anything more  
4 than we need to do today?

5 MR. NOBLE: No, your Honor, other than the government  
6 would move to continue the same bail conditions that Mr. Bahn,  
7 as far as we know, has been in full compliance with, through  
8 the date of sentencing.

9 THE COURT: I take it there is no objection.

10 MS. GATTO: No objection, your Honor.

11 THE COURT: The bail conditions will be continued.  
12 Is there anything more? Ms. Gatto.

13 MS. GATTO: Nothing. Thank you, your Honor.

14 MR. NOBLE: Nothing from the government. Thank you.

15 (Adjourned)  
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